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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,605	10/18/2005	Ryuji Suzuka	10992.09-46	6011
22852	7590	07/02/2009		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER COLE, ELIZABETH M	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			07/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,605

Applicant(s)

SUZUKA ET AL.

Examiner

Elizabeth M. Cole

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/11/09 has been entered.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins et al, U.S. Patent No. 5,178,932 in view of McAlister, U.S. Patent No. 3,494,819 and Bessey et al, "Solid Phase Processing of Polymers" and Fourné, "Synthetic Fibers". Perkins discloses a multilayered laminate comprising an inner meltblown layer having a diameter of 0.1-10 micrometers and two outer layer comprising fibers having a diameter in excess of 7 micrometers. The interfaces between the layers significantly intermingled. See abstract. The basis weight for the laminate in the example is 54 grams per square meter which is within the claimed range. The layers are bonded through the application of heat and pressure. Suitable fibers for the layers include polyesters, polyolefins, polyetherester and polyamides. See col. 5, line 65 - col. 6, line 33. The melt blown layer has a basis weight of 14 gsm while the two outer layers have basis weights of 20 gsm each respectively, so the meltblown layer, (i.e., fine fiber

layer), has a weight of less than 50% of the fabric weight. Perkins differs from the claimed invention because it does not specifically disclose the claimed bulk density and intrusion index, pressure employed or solution viscosity. However, since Perkins teaches the same types and diameters of fibers in fabrics of the claimed basis weight, and teaches combining the layers through pressure in order to arrive at a laminate where the interfaces are significantly intermingled, it would have been obvious to one of ordinary skill in the art to have selected the processing conditions and viscosities through the process of routine experimentation in order to arrive at a fabric having the desired bulk density and intrusion index. With regard to the claimed crystallinity, McAlister teaches that with regard to polyester fibers, it is known that fibers having a higher crystallinity have higher tenacity but poorer bonding properties while fibers having lower crystallinity have lower tenacity but better bonding properties. See col. 2, line 45 - col. 3, line 12. Further, Bessey et al in "Solid Phase Processing of Polymers" teaches that it is known in polyester fibers that the spinning speed is directly related to the degree of crystallinity. See Figure 4.3 on page 93. Bessey et al teaches percent crystallinity which encompasses the claimed range and which can be controlled through control of spinning speed. Therefore, it would have been obvious to have controlled the crystallinity of the polyester fibers of Perkins as taught by McAlister and Bessey in order to arrive at fibers having the desired tenacity and bonding ability. With regard to the solution viscosity, Fourné in "Synthetic Fibers" teaches suitable solution viscosities for spinning polyester fibers which encompass those claimed, (see page 75). Therefore, it

would have been obvious to have selected known and suitable solution viscosities for spinning the polyester fibers of Perkins.

4. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

The examiner's supervisor Rena Dye may be reached at (571) 272-3186.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

e.m.c